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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/932,424	08/17/2001	Eric Eugene. Johnson		4305

7590 10/05/2004  
ERIC E. JOHNSON  
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EXAMINER

NELSON JR, MILTON

ART UNIT PAPER NUMBER

3636

DATE MAILED: 10/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/932,424

Applicant(s)

JOHNSON, ERIC EUGENE

Examiner

Milton Nelson, Jr.

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— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —  
Period for Reply

## A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 01 June 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 12-16 and 18-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 12-16 and 18-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 8/17/01 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

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## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on June 1, 2004 has been entered.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 12-16 and 18-21 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. It is unclear how the firm head-support portion is capable of extending far enough outward from the seat back such that the head-support portion will provide sufficient lateral support to prevent rolling forward of

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the user's head beyond the extending dimension of the head-support portion (independent claims 18 and 21). It can be seen that the extending dimension is forward relative to the plane of the seat back. It appears that in order for rolling forward of the head beyond the extending dimension to be prevented, the extending dimension would need to extend far enough in front of the user's head to prevent this from happening. The instant invention does not appear to support this. Even the embodiments of Figures 6A and 6B, which are angled slightly, do not appear capable of prevented rolling forward of a user's head beyond the extending dimension of the head-support portion. Claims 12-16 and 20 are indefinite since each depends from an indefinite claim.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 12-16 and 20-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In line 13 of claim 21, "the surface opposite from said base portion" lacks proper antecedent basis. In line 3 of claim 13, it is unclear if "said means for wrapping around said front and rear surface of said seat back" is intended to be the same structure as the previously set forth "means for wrapping around the front and rear surfaces of said seat back". In claim 15, it is unclear how the head-support portion is considered engaged with the base portion "in" a pivoting means. It appears that the head-support portion is

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engaged with the base portion with a pivoting means. Such presents a different scope from "in" a pivoting means. Claims 12, 14 and 16 are indefinite since each depends from indefinite claim 21. In claim 20, "it is unclear if "a strap loop surrounding a strap and a slide-back stopper" are intended to be the same feature as the previously set forth "means for wrapping".

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore the following must be shown or cancelled from the claims:

1. A head-support portion engaged with the base portion "in" a pivoting means (claim 15). It appears that the head-support portion is engaged with the base portion with a pivoting means.
2. A firm head-support portion which is adapted for extending far enough outward from the seat back such that the head-support portion will provide sufficient lateral support to prevent the rolling forward of the user's head beyond the extending dimension of the head-support portion (claims 18 and 21).

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 18, as best understood with the above cited indefiniteness, is rejected under 35 U.S.C. 102(b) as being anticipated by Chow (5544378). Note the firm base portion (the back portion of inflatable structure 12, in back of 30), means for wrapping (16, 40), firm head-support portion (front portion of 12, in front of 30), head-support surface (front surface of 12) opposite the base portion.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 19, as best understood with the above cited indefiniteness, is rejected under 35 U.S.C. 103(a) as being unpatentable over Chow (5544378).

Chow shows all claimed features of the instant invention (note discussion above) with the exception of the inflatable structure comprising a substantially tear-drop shape.

It would have been an obvious matter of choice in design to one having ordinary skill in the pertinent art at the time of the instant invention to modify the Chow by configuring the inflatable structure such that it has a substantially tear-drop shape. The change in shape provides no advantages and solves any known problems, and merely provides an alternate, equivalent design consideration for the inflatable structure. The

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device of Chow performs equally as well with either its original shape or a tear drop shape.

***Response to Amendment/Arguments***

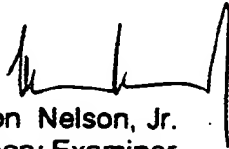
Applicant's response filed June 1, 2004 has been fully considered. Remaining issues are described in the above sections. Arguments regarding the previous prior art rejection are now moot in view of the new grounds of rejection. Reconsideration of the claims has necessitated new rejections/objections. Note such rejections under 35 U.S.C. 112, first and second paragraphs. Note objections under 37 CFR 1.83(a). It is suggested that Applicant eliminate all objectionable matter. It is also suggested that indefiniteness be eliminated from the claims. It is additionally suggested that claims 18 and 19 be cancelled, and that claim 20 be rewritten in independent form including all definite limitations of the independent claim. Applicant is advised that claims 12-16, 20 and 21 have not been rejected based on the prior art, however in order for these claims to be considered as containing allowable subject matter, indefiniteness under 35 USC 112 first paragraph must be eliminated in order that the claims can be properly considered.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Milton Nelson, Jr. whose telephone number is 7033082117. The examiner can normally be reached on Monday-Friday 5:30-3:00.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Milton Nelson, Jr.  
Primary Examiner  
Art Unit 3636

mn  
June 27, 2004